

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

ESTATE OF ROGER D. :
OWENSBY JR., et al., :
:
Plaintiffs, :
vs. : Case No. 01-CV-769
: (Judge S. A. Spiegel)
CITY OF CINCINNATI, :
et al., :
:
Defendants. :

Deposition of ROBERT B. HEILAND JR.,
defendant herein, called by the plaintiffs for
cross-examination, pursuant to the Federal Rules of
Civil Procedure, taken before me, Wendy Davies
Welsh, a Registered Diplomate Reporter and Notary
Public in and for the State of Ohio, at the offices
of Helmer, Martins & Morgan Co. LPA, 1900 Fourth &
Walnut Centre, 105 East Fourth Street, Cincinnati,
Ohio, on Wednesday, December 3, 2003, at 10:10 AM.

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1 S T I P U L A T I O N S Page 4
2 It is stipulated by and among counsel for the
3 respective parties that the deposition of ROBERT B.
4 HEILAND JR., defendant herein, called by the
5 plaintiffs for cross-examination, pursuant to the
6 Federal Rules of Civil Procedure, may be taken at
7 this time by the notary; that said deposition may be
8 reduced to writing in stenotype by the notary, whose
9 notes may then be transcribed out of the presence of
10 the witness; and that proof of the official
11 character and qualifications of the notary is
12 expressly waived.
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22
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24

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1 Q. All right. 2 A. And there was a police officer on each 3 side of him, there was a few people around. And one 4 of the officers asked if they could put him in my 5 cruiser. 6 Q. When that question was asked where was Mr. 7 Owensby? 8 A. Mr. Owensby was still on the ground or 9 they were in the process of picking him up. 10 Q. Picking him up? Okay. Go ahead. 11 A. I said, "Sure." They picked him up, one 12 on each side, under each arm, and brought him to my 13 cruiser. I opened the rear passenger door and they 14 placed Mr. Owensby in the back of my car. 15 Q. Let me show you what's previously been 16 marked as Exhibit 9. Do you recall whether or not 17 that is a photograph of the car that the officers 18 and Mr. Owensby were near when you pulled in? 19 A. I don't recall what type of car it was. I 20 can't see the background in the picture. 21 Q. As perspective goes, this is taken from 22 the entrance of the convenience store looking out. 23 A. Having said that, then they would have 24 been at the rear of this car.	1 Officer Campbell with you? 2 A. I don't recall. 3 Q. When you returned to the cruiser were the 4 doors, the back doors, closed? 5 A. Yes, they were. 6 Q. Did you check on Mr. Owensby? 7 MR. WEISENFELDER: Objection. 8 Go ahead. 9 A. No. 10 Q. No? 11 A. No. 12 Q. Did you ever look in to check on Mr. 13 Owensby? 14 MR. WEISENFELDER: Objection. 15 Go ahead. 16 A. Yes. 17 Q. When? 18 A. I don't know how long it was, but I did 19 look in the back of the cruiser. 20 Q. When you did look in -- let me back up. 21 The cruiser was situated near a gas 22 island, correct? 23 A. Correct. 24 Q. The gas island has those halogen lights on
Page 23	Page 25
1 Q. Did you watch them place Mr. Owensby in 2 the back seat of the car, of the Golf Manor car? 3 A. I opened the door, took a step away, and 4 they were having trouble placing him in the back of 5 the car. No. I didn't watch them place him all the 6 way in the car. 7 Q. What did you do as they were placing him? 8 Where was your attention directed as they were 9 placing him in the car? 10 A. Looking out the rest of the parking lot. 11 At one point I walked away and went over to another 12 Golf Manor officer, Officer Campbell. 13 Q. Was there a point in time where you 14 returned to your cruiser? 15 A. Yes. 16 Q. So you walk away toward Officer Campbell, 17 and then some time goes by and you and Officer 18 Campbell, or at least you, return to your cruiser, 19 right? 20 A. Correct. 21 Q. Do you have an estimate of how much time 22 went by in that interval? 23 A. I don't recall. 24 Q. When you returned to your cruiser was	1 it, correct? 2 A. I don't recall. 3 Q. In any event, there was sufficient light 4 from the gas island and from the convenience store 5 to see Mr. Owensby in the back seat of the car, 6 right? 7 A. The scene was well lit. 8 Q. When you did look in, what did you see? 9 A. Mr. Owensby was handcuffed and laying in 10 the back of the cruiser. 11 Q. How was he situated in the back seat? 12 Sitting up, laying down? 13 A. He was laying down. 14 Q. Where was his head? 15 A. His head was facing the passenger's side 16 of the car. 17 Q. When you looked in were you on the 18 passenger's side of the car? 19 A. Correction. His head was facing the 20 driver's side of the car. When I looked in I was on 21 the passenger's side. 22 Q. So you were looking in through the 23 passenger's side rear window? 24 A. Correct.
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1 Q. Do you know whether or not any lawyers 2 showed up on the scene?	1 Q. As they were coming toward you bringing 2 Mr. Owensby, were you facing them?
3 A. I don't know. The news was across the 4 street.	3 A. Yes.
5 Q. The what?	4 Q. So you were also facing Mr. Owensby, 5 right?
6 A. The news.	6 A. Yes.
7 Q. What is the news?	7 Q. Could you see his face?
8 A. The news. The media.	8 A. Yes.
9 Q. Oh. Okay.	9 Q. What did his face look like?
10 A. Yeah.	10 A. It appeared that he had a little bit of 11 blood on his face, and I don't recall that there was 12 any facial expression or anything like that.
11 MR. WEISENFELDER: Wait until there's a 12 question.	13 Q. Did he have any blood on his forehead?
13 THE WITNESS: Sorry.	14 A. I don't recall.
14 Q. Am I correct in understanding that when 15 you initially pulled into the Sunoco station you saw 16 two Cincinnati Police Department uniformed officers 17 kneeling down over Mr. Owensby?	15 Q. Were his eyes opened or closed?
18 A. Correct.	16 A. I don't know.
19 Q. Were they kneeling on him or next to him?	17 Q. Was his head erect or down or back?
20 A. From where I was standing I couldn't be 21 exact -- I couldn't say with certainty where their 22 knees were. It appeared that they were just next to 23 him, crouched down.	18 A. It was down a little bit.
24 Q. As you got out of your car and circled	19 Q. Did you hear him say anything as they were 20 bringing him toward your cruiser?
	21 A. No.
	22 Q. Did you see him move in any fashion as 23 they were bringing him towards your cruiser?
	24 A. No.
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1 around to the right of the -- to the front of the 2 car and the Huntington Meadows security officer 3 waved you down, at this point in time the officers 4 were picking up Mr. Owensby off of the ground; is 5 that right?	1 Q. I mean, obviously he's moving, because 2 they're bringing him, but I mean, in terms of 3 actively resisting, trying to pull away from them or 4 kicking at them, anything like that?
6 A. Correct.	5 A. I didn't see him kick. No major 6 movements. It appeared that they were struggling to 7 get him to the cruiser.
7 Q. When he was picked up off the ground you 8 believe he was handcuffed; is that right?	8 Q. As you sit here today, you don't recall 9 whether or not the struggling was because they were 10 carrying somebody who was unconscious or whether or 11 not it was resistance of some sort?
9 A. I believe he was.	12 A. I do not know.
10 Q. That's because of the position of his 11 arms?	13 Q. Would you describe for me how they were 14 bringing him to the cruiser, that is their position 15 in relation to Mr. Owensby.
12 A. Correct.	16 A. One officer on each side with their arm 17 through his (indicating).
13 Q. The officers that picked him up, were 14 those officers Jorg and Caton?	18 Q. So his arms are handcuffed behind his 19 back?
15 A. Yes.	20 A. Handcuffed.
16 Q. It was those two officers who escorted Mr. 17 Owensby towards your car?	21 Q. They are on each side? Who is on Mr. 22 Owensby's right as you're looking, your left? Do 23 you understand what I'm saying?
18 A. Correct.	24 A. No.
19 Q. Do you recall which officer asked you for 20 permission to place Mr. Owensby in your car?	
21 A. I do not know.	
22 Q. Do you know whether or not it was one of 23 those two, that is Caton or Jorg?	
24 A. I do not know.	

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1 of this car being parked next to your car?	1 (Plaintiff's Exhibit 76 2 was marked for identi- 3 fication.)
2 A. No.	2
3 Q. At this point in time do you know whether 4 or not you had already had your conversation with 5 Officer Brazile?	3 Q. Let me show you what's marked as 4 Exhibit 76. Exhibit 76 is the oath that you took in 5 February 1, 2000 when you became a police officer 6 for the Village of Golf Manor, correct?
6 A. I do not.	7 A. Correct.
7 Q. We're at 4 minutes 30 seconds. Do you 8 know whether or not at this point in time you had 9 checked on Mr. Owensby, that is looked in on him?	8 Q. Before November 7, 2000 did you have any 9 experience with an arrest being made by another 10 police department and them placing their prisoner in 11 a Golf Manor cruiser?
10 A. I do not know.	12 A. I don't know.
11 Q. 4 minutes, 33 seconds. There is a car in 12 the middle of the screen. That would be Officer 13 Campbell's Golf Manor cruiser?	13 Q. Since November 7, 2000 have you had any 14 experience with a police department, other than Golf 15 Manor, making an arrest and placing the prisoner in 16 a Golf Manor cruiser?
14 A. Correct.	17 MR. HARDIN: Objection.
15 (Discussion off the record.) (Plaintiff's Exhibit 75 16 was marked for identi- 17 fication.)	18 A. No.
18 Q. Let me show you, sir, Exhibit 75, which I 19 believe is a transcript of your testimony during 20 Officer Caton's trial. If you'd just take a look at 21 that and tell me whether or not that seems to be the 22 case.	19 Q. Do you know if on November 7, 2000 there 20 was a policy or some guidance in place that 21 addressed the situation that arose that evening?
23 A. Yes, it does.	22 MR. WEISENFELDER: I'm going to object as 23 to the vague question in terms of situation.
24 Q. What's your best estimate of, from the	24 MR. MARTINS: Yes. Let me rephrase.
Page 67	Page 69
1 time you got the officer needs assistance call, how 2 much time it took to get to the scene, to the 3 convenience store parking lot?	1 Q. Do you know whether or not Golf Manor had 2 a policy or guidance for its officers on November 7, 3 2000 to address the situation where a Golf Manor 4 officer is asked to give permission to place a 5 person who has been arrested by another police 6 department in a Golf Manor cruiser?
4 A. 30 seconds to a minute maybe.	7 MR. WEISENFELDER: Objection.
5 Q. Does the police station where you were 6 located, does it have a life squad or an EMT unit 7 there?	8 Go ahead, you can answer.
8 A. Yes.	9 A. I knew at that time, based on working, 10 training, that we could go over to other departments 11 and assist them with whatever they needed.
9 Q. So for them to get to that same location 10 would have taken approximately the same amount of 11 time?	12 Q. I don't mean to cut you off.
12 A. I don't know how long it would have taken 13 them.	13 A. That's okay.
14 Q. Well, it took you between 30 seconds and a 15 minute?	14 Q. That was this mutual aid agreement that 15 was signed by the various police departments in the 16 greater Cincinnati area?
16 A. Correct.	17 A. Correct.
17 Q. Is there any reason to believe that it 18 would have taken them a longer amount of time?	18 Q. Other than knowing that you could assist 19 other police departments, do you know whether or not 20 there was any policy or guidance or custom in place 21 at Golf Manor to address what an officer's duties 22 and responsibilities were where another police 23 department asked him to place their prisoner in his 24 car?
19 MR. WEISENFELDER: Objection. 20 Go ahead.	
21 A. If they had to -- I don't know how life 22 squad and fire departments work, if they have to get 23 dressed and get down to the car and take off. I 24 don't know the procedures.	

<p style="text-align: right;">Page 70</p> <p>1 A. When we would respond to a scene to assist 2 another department we would be under their command, 3 no matter what the rank. If you pull up on the 4 scene you assist them in how they need you to 5 assist.</p> <p>6 Q. Did you have an understanding as to 7 whether or not you would, in this situation, 8 November 7, 2000, when you responded to the Sunoco 9 station, did you understand that you were assisting 10 the Cincinnati Police Department?</p> <p>11 A. Yes. The assistance call came out. 12 That's why I was there.</p> <p>13 Q. In responding to this assistance call, did 14 you understand that you would be subject to the 15 rules, policies, and customs of the Cincinnati 16 Police Department or the Golf Manor Police 17 Department?</p> <p>18 A. My understanding was I would be there at 19 the scene to assist them how they needed me to.</p> <p>20 Q. But what rules governed your conduct? Was 21 it Golf Manor or was it Cincinnati Police 22 Department?</p> <p>23 MR. WEISENFELDER: Objection. 24 Go ahead.</p>	<p style="text-align: right;">Page 72</p> <p>1 rules and regulations; is that correct?</p> <p>2 MR. WEISENFELDER: Objection as to form. 3 If you can answer that, go ahead.</p> <p>4 A. I can't answer it.</p> <p>5 Q. My question is just whether or not you had 6 any instruction on November 7th as to which 7 department's rules and regulations you were to 8 follow when you were assisting another police 9 department.</p> <p>10 MR. WEISENFELDER: Objection.</p> <p>11 Q. The question is just whether or not you 12 had any instruction.</p> <p>13 A. No.</p> <p>14 Q. As of November 7, 2000, did you have any 15 understanding as to whether you had any 16 responsibilities for the safety of a prisoner who 17 was placed in your cruiser?</p> <p>18 MR. WEISENFELDER: I'm going to object 19 again as to the form. 20 Go ahead.</p> <p>21 A. The question again, please?</p> <p>22 Q. As of November 7, 2000, did you have any 23 understanding of your responsibilities for the 24 safety of a prisoner who is arrested by another</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. If you know. 2 A. I don't know.</p> <p>3 Q. Do you recall receiving any instruction or 4 guidance concerning what rules a Golf Manor officer 5 had to follow when he was in this situation of 6 assisting another police department?</p> <p>7 A. Through working with other officers in 8 field training and going to other scenes and other 9 departments, I just understood that we were under 10 their direction for as long as they needed 11 assistance and that was it.</p> <p>12 Q. Did you have any understanding that you 13 would be bound -- or whether or not you would be 14 bound by the policies, rules, and regulations of the 15 Cincinnati Police Department if you were assisting 16 the Cincinnati Police Department?</p> <p>17 A. I didn't know.</p> <p>18 Q. You didn't know?</p> <p>19 A. I didn't -- at that time I don't -- I 20 don't know.</p> <p>21 Q. And as I take it at that time you had 22 received no instruction on whether or not you were 23 bound by, say in this case, Cincinnati's rules and 24 regulations or continued to be bound by Golf Manor's</p>	<p style="text-align: right;">Page 73</p> <p>1 police force but placed in your cruiser?</p> <p>2 MR. WEISENFELDER: Objection. 3 Go ahead.</p> <p>4 A. My understanding at that time is I would 5 be responsible for my prisoners, anybody that was in 6 my custody. If somebody is not my prisoner, not in 7 my custody, then on the assistance call if somebody 8 puts their prisoner in the back of my car, they 9 asked to put them in the back of my car and I'm 10 there for assistance. It's their prisoner and it's 11 in their custody. So it's their responsibility.</p> <p>12 Q. Did you have any understanding that by 13 accepting the prisoner and placing him in the back 14 seat of the Golf Manor cruiser that the prisoner was 15 now in your custody?</p> <p>16 MR. WEISENFELDER: Objection as to the 17 word "accepting." 18 Go ahead and answer.</p> <p>19 A. No.</p> <p>20 Q. Did you receive any training as to the 21 distinction we've just been talking about, that 22 whether or not a prisoner placed in a Golf Manor car 23 from another jurisdiction, as to who had custody of 24 the prisoner?</p>

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1 A. From going to other calls and seeing it 2 done before, the prisoner's always the arresting 3 officer's or the agency's jurisdiction where you're 4 at.	1 A. That's correct.
5 Q. You had had this arise in the past? 6 A. I have seen it done on other calls.	2 Q. That's one of the sections of the Golf 3 Manor manual that you reviewed in preparation for 4 your deposition today?
7 Q. Before November 7, 2000? 8 A. I don't recall exact dates, but, yeah.	5 A. That's correct.
9 Q. But before the night of November 7, 2000; 10 is that right? 11 A. Yes.	6 Q. Did you select out the sections to review 7 today or did someone else select them out for you? 8 The sections of the manual.
12 Q. Did you feel that you had any 13 responsibility for the well-being of Mr. Owensby? 14 A. No.	9 A. Did I select these today?
15 MR. WEISENFELDER: Objection. 16 Go ahead.	10 Q. No, no. When you were getting ready for 11 your deposition, for today's deposition, you 12 reviewed various sections of the Golf Manor manual.
17 Q. Regardless of who is technically 18 responsible for the well-being of a prisoner, if you 19 know that a prisoner is injured and needs medical 20 attention, is it your understanding that you have a 21 duty to provide medical attention? 22 A. Yes.	13 My question is did you select out those provisions 14 to look at or did someone else select them out for 15 you?
23 Q. You knew that this person, Mr. Owensby, 24 had blood around his nose and mouth; is that right?	16 MR. WEISENFELDER: I'm going to object. I 17 think your invading the attorney-client 18 privilege now, to the extent that the attorney 19 may have been present when he was preparing for 20 the deposition, and what he may have been 21 instructed to review by an attorney I believe 22 falls within that.
	23 Q. The only question I want to know is 24 whether or not you selected the sections, either a
Page 75	Page 77
1 A. Yes.	1 yes or no, not as to any communication with any
2 Q. Did you take any steps to administer any 3 first aid for the blood around the nose and mouth? 4 MR. WEISENFELDER: Objection. 5 Go ahead.	2 attorney.
6 A. No.	3 MR. WEISENFELDER: You can answer.
7 Q. Had you done so, do you think you would 8 have been in a better position to determine whether 9 or not Mr. Owensby was conscious or unconscious at 10 the time he was placed in your vehicle? 11 MR. WEISENFELDER: Objection. 12 Go ahead.	4 A. No, I did not select the sections.
13 A. I don't know.	5 Q. In Exhibit 77, if you go to page 4 you 6 will see that it is blank. I have what I believe is 7 page 4 based on what counsel has provided.
14 Q. I know you said that you don't recall what 15 Officer Brazile told you, but do you recall whether 16 or not you took any action in response to what 17 Officer Brazile told you? 18 A. I don't recall. <small>(Plaintiff's Exhibit 77 was marked for identi-</small>	8 MR. WEISENFELDER: Counsel will represent 9 that when responding to request for production 10 of documents approximately a year ago, that 11 apparently in copying what was believed to be a 12 responsive portion of the manual, page 4 13 apparently was blacked out, not intentionally. <small>(Plaintiff's Exhibit 77A was marked for identi- fication.)</small>
20 fication.)	15 Q. So I'm going to mark page 4 with 16 Exhibit -- as 77A. I want to direct your attention 17 to section II. A of the manual, which is on the 18 first page of Exhibit 77.
21 Q. Let me show you a portion of the Golf 22 Manor manual, marked as Exhibit 77. Exhibit 77 is 23 the Golf Manor manual provision 6-07 concerning 24 prisoner transportation; is that right?	20 The second sentence of II. A. says, 21 "Therefore, it is the policy of this department that 22 EVERY prisoner transported in a police vehicle shall 23 be searched and handcuffed by the transporting 24 officer prior to being transported, unless

1 specifically exempted under provisions of this 2 procedure." Do you see that? 3 A. I do. 4 Q. Do you see that the word "EVERY" is 5 capitalized? 6 A. Yes. 7 Q. Neither you nor Officer Campbell searched 8 Mr. Owensby on the night of November 7, 2000; is 9 that right? 10 A. That's correct. 11 Q. Had you searched Mr. Owensby do you 12 believe that you would have been in a better 13 position to discover whether or not at a minimum he 14 was conscious or unconscious at the time that he was 15 placed in the vehicle? 16 MR. WEISENFELDER: Objection. 17 Go ahead. 18 A. Yes. We didn't search him because we 19 weren't going to transport him. 20 Q. If you had determined that he was 21 unconscious, regardless of whether or not he was in 22 your custody, would you have administered first aid 23 to him? 24 A. Yes. Or let the city --	Page 78 1 he be transported by another agency? 2 Q. No, no. My question is can you recall a 3 situation where Golf Manor made an arrest and there 4 was more than one Golf Manor car there at the scene. 5 Okay? 6 A. (Nodding head.) 7 Q. The prisoner, the Golf Manor prisoner, is 8 taken and placed in a Golf Manor car, but when it 9 comes time to transport the prisoner, for some 10 reason the prisoner is moved to another Golf Manor 11 car. Maybe the car that he was originally placed in 12 has another call to go to or something, so he's 13 taken out and moved to another car to be 14 transported. Do you recall any such situations? 15 A. I don't recall. 16 Q. Based on your training, if that happened, 17 would Golf Manor search, be under an obligation to 18 search the prisoner when he was being placed in the 19 first car? 20 MR. WEISENFELDER: Objection. Calls for 21 speculation. 22 Go ahead. You can answer. 23 A. I don't understand the question. 24 Q. A person is drunk and disorderly. Three
Page 79 1 Q. Or called for -- 2 A. -- let the city officers, the arresting 3 officers, know. 4 Q. None of that was done, correct? 5 MR. WEISENFELDER: Objection. 6 Go ahead. 7 A. Correct. 8 Q. Am I correct in understanding that your 9 reason as to why none of that was done was because 10 you were not going to be transporting Mr. Owensby? 11 A. Correct. 12 Q. Have there been situations where Golf 13 Manor has responded to a scene, that more than one 14 Golf Manor car has responded to a scene, and a Golf 15 Manor prisoner was placed in one car and then when 16 it came time to transport the prisoner, the prisoner 17 was moved to another Golf Manor car? 18 MR. WEISENFELDER: Objection. 19 Go ahead. 20 A. I'm sure the situation has a -- 21 MR. WEISENFELDER: The question is do you 22 know of one? 23 A. If there's two police -- two Golf Manor 24 cruisers there and there's only one prisoner, would	Page 79 1 Golf Manor cars arrive on the scene in response. 2 A. Okay. 3 Q. The person is arrested and is placed in 4 the first Golf Manor car. 5 A. Okay. 6 Q. In the back seat. He's handcuffed and 7 placed in the back seat. As it turns out, the 8 officer that's driving the first car receives a call 9 and has to go somewhere else. Okay? 10 A. (Nodding head.) 11 Q. So the person is taken out of the back 12 seat of the car and moved into the second Golf Manor 13 car for transport. Understood? 14 A. Uh-huh. 15 MR. WEISENFELDER: Yes? 16 A. Yes. 17 Q. In that situation, when the arrestee is 18 placed in the first Golf Manor car, is it your 19 understanding that per the Golf Manor manual that 20 arrestee has to be searched? 21 A. Before being placed in the first Golf 22 Manor car? 23 Q. Correct. 24 A. Yes.

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1	A. I said, "Sure."	1 was Maced?
2	Q. "Sure." Did anyone say to you words to	2 A. I did not know.
3	the effect, "We're going to transport him later"?	3 Q. Did you smell Mace when you got there?
4	A. No.	4 A. I did not.
5	Q. Go to page 6, please. Section II. E.,	5 Q. Did you see any police officers or other
6	first paragraph says, "Any prisoner who is sick or	6 individuals coughing or reacting to Mace?
7	injured shall be examined by life squad personnel	7 A. Not that I recall.
8	and offered treatment for their injury or illness	8 Q. Have you used Mace?
9	prior to being transported to any jail or detention	9 A. Yes.
10	facility." See that?	10 Q. Have you been Maced?
11	A. Yes, sir.	11 A. Yes.
12	Q. On November 7, 2000 did you understand	12 Q. Based on your experience, what is the
13	that to be the policy and requirements of Golf	13 reaction to Mace?
14	Manor?	14 A. Based on my experience, it's rather
15	A. Yes.	15 unpleasant. It causes you to sneeze or your mucus
16	Q. Did you make any attempt to determine	16 membranes to excrete.
17	whether or not Mr. Owensby was injured, other than	17 Q. Does it make breathing difficult?
18	seeing the blood around his nose and mouth?	18 A. To me personally, it didn't -- it wasn't
19	MR. WEISENFELDER: Objection.	19 tough for me to breathe when I was Maced. I can't
20	Go ahead.	20 speak for other people. I have heard that, but it
21	A. No.	21 wasn't for me.
22	Q. I take it you took no steps to ensure that	22 Q. Over the radio did you hear any report
23	he was examined by life squad personnel, correct?	23 that Mr. Owensby had been Maced?
24	MR. WEISENFELDER: Objection.	24 A. No.
	Page 87	Page 89
1	Go ahead.	1 Q. Paragraph E. 3. on page 6. It says, "If
2	A. Correct.	2 necessary, the Golf Manor Life Squad may be called
3	Q. The only life squad personnel involved	3 to provide an ambulance for transportation to a
4	would have been when Sergeant Watts called for	4 medical facility." In this situation the Golf Manor
5	medical assistance, correct?	5 life squad was never called, correct?
6	MR. HARDIN: Object to the form of the	6 MR. WEISENFELDER: Objection.
7	question.	7 Go ahead.
8	MR. WEISENFELDER: Go ahead.	8 A. Correct.
9	A. Correct.	9 Q. At E. 5. it says, "Unconscious prisoners
10	Q. You never offered treatment for Mr.	10 shall not be transported in a police vehicle, but
11	Owensby's injuries on the night of November 7, 2000,	11 shall be taken to a hospital or medical facility by
12	correct?	12 ambulance." Do you see that?
13	MR. WEISENFELDER: Objection.	13 A. Yes.
14	Go ahead.	14 Q. Again, there was no attempt by you or
15	A. Correct.	15 anyone on behalf of Golf Manor to determine whether
16	Q. Had you attempted to ask him, ask Mr.	16 or not the person being placed in your vehicle was
17	Owensby, whether or not he wanted treatment for his	17 conscious or unconscious, correct?
18	injuries, the blood that you saw around the nose and	18 MR. WEISENFELDER: Objection.
19	mouth, you would have been able to determine whether	19 Go ahead.
20	or not he was conscious or unconscious, correct?	20 A. Correct.
21	MR. WEISENFELDER: Objection.	21 Q. In fact, based on what you observed, your
22	Go ahead.	22 observations were consistent with someone who was
23	A. Correct.	23 unconscious, correct?
24	Q. Did you know whether or not Mr. Owensby	24 MR. WEISENFELDER: Objection.

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1 Go ahead.	1 assistance, but when you arrived the officers were
2 A. I didn't know if he was conscious or	2 disheveled and were breathing heavily, correct?
3 unconscious.	3 A. Correct.
4 Q. Well, you heard no sounds from the	4 Q. Again, in contrast to that you saw Mr.
5 individual at any time, correct, from Mr. Owensby?	5 Owensby was not breathing heavily, correct?
6 A. Correct.	6 A. I don't recall.
7 Q. You saw no movement from him at any time,	7 Q. You did not notice that he was breathing
8 correct?	8 heavily?
9 A. Correct.	9 A. I did not notice, correct. <small>(Plaintiff's Exhibit 78 was marked for identification.)</small>
10 Q. As of November 7, 2000, had you had any	10 Q. Let me show you Exhibit 78, a document
11 training from Golf Manor as to whether or not you	11 that we received yesterday. This is the mutual aid
12 should make a determination of whether a prisoner is	12 agreement between Golf Manor and other police
13 conscious or unconscious before that prisoner is	13 departments in the greater Cincinnati area and
14 placed in your vehicle when you are in a situation	14 Cincinnati Police Department?
15 of assisting another police department?	15 A. Correct.
16 A. No.	16 Q. Have you in the course of performing your
17 Q. Had you received any training on that	17 duties at Golf Manor had the opportunity to review
18 subject?	18 this mutual aid agreement?
19 A. No.	19 A. I have.
20 Q. As you sit here today, have you received	20 Q. Have you had any training at Golf Manor
21 any training on that subject?	21 concerning how to operate under the mutual aid
22 MR. WEISENFELDER: Objection.	22 agreement?
23 Go ahead.	
24 A. No.	
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1 Q. Based on your understanding of the rules	1 MR. WEISENFELDER: Objection as to what
2 and regulations, policies of Golf Manor, if Officer	2 he's already testified concerning his
3 Campbell had made an arrest and the subject was	3 understanding from other officers about the
4 unconscious, would you believe that it would be okay	4 agreement.
5 for Officer Campbell to place the subject in your	5 Q. I'm asking about formal training from Golf
6 car, even though he was unconscious?	6 Manor.
7 MR. WEISENFELDER: Objection.	7 A. What do you mean by formal training?
8 Go ahead.	8 Q. A class.
9 A. No.	9 A. No.
10 Q. Am I correct in understanding that if the	10 Q. Have there been any directives or memos
11 subject is unconscious the policy is that he should	11 given to you concerning how a Golf Manor officer is
12 not be placed in any car and that an ambulance	12 to carry out the mutual aid agreement?
13 should be called?	13 A. Not that I'm aware of.
14 MR. WEISENFELDER: Objection.	14 Q. Have any superiors at Golf Manor explained
15 Go ahead.	15 to you how an officer should behave in carrying out
16 A. Correct.	16 the mutual aid agreement?
17 Q. In addition to observing that Mr. Owensby	17 A. Not that I recall.
18 made no sounds and made no motion that evening, you	18 Q. Other than reading the mutual aid
19 understood when you arrived on the scene that there	19 agreement, which you said you did, have you received
20 had been some sort of struggle in the arrest,	20 any guidance from Golf Manor on how the terms of the
21 correct?	21 agreement should be carried out, what your
22 A. It appeared that there had been a	22 obligations are, what your duties are?
23 struggle, yes.	23 A. From working on the road with an FTO and
24 Q. You base that not only on the call for	24 responding to other agencies, it's my understanding

AFFIDAVIT

STATE OF OHIO : SS
COUNTY OF HAMILTON : - - -

I, Wendy L. Welsh, Notary Public in and for the State of Ohio, do hereby state that the transcript of the deposition of ROBERT B. HEILAND, JR., deponent herein, having been submitted to said deponent for review and signature, has not been signed within the thirty (30) day period allowed under the Federal Rules; said deposition to now have the same force and effect as though signed.

Wendy L. Welsh
Wendy L. Welsh, Court Reporter

Sworn to before me this 27th day of January, 2004.

Thomas M. Blasing
Thomas M. Blasing
Notary Public - State of Ohio

My commission expires:
May 4, 2004.